



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors : Norman Barton et al.  
Serial No. : 10/058,066  
Filing Date : January 29, 2002  
For : A Method of reating Wounds by Enhancing Expression  
of Procollagen  
Examiner : Russell S. Travers  
Art Unit : 1617  
Customer No. : 2582  
Attorney Docket No. : 10793/52

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

Date: August 3, 2004

Signature:

Payam Moradian, Reg. No. 52,048

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ELECTION AND RESPONSE TO RESTRICTION  
REQUIREMENT UNDER 37 CFR §§ 1.111 AND 1.143**

This Amendment under 37 C.F.R. §§ 1.111 and 1.143, addresses the Office Action dated March 3, 2004.

Applicants respectfully request a 4 extension of time and thereby extend the response date to August 3, 2004 and hereby authorize you to charge payment of the extension fee to Kenyon & Kenyon's Deposit Account No. 11-0600.

**REMARKS**

Applicants were required to elect one of the following groups of invention:

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- I. Claim 1, drawn to a method of identifying wound treating compounds by measuring agonistic excretion of wound healing procollagen from human fibroblasts exposed to various compounds in vitro.
- II. Claim 2, drawn to compounds identified as wound treating by measuring agonistic excretion of wound healing procollagen from human fibroblasts exposed to such compounds in vitro.
- III. Claims 3-5 and 48-51, drawn to a pharmaceutical composition of matter comprising compounds as wound treating compounds by measuring agonistic excretion of wound healing procollagen from human fibroblasts exposed to various compounds in vitro.
- IV. Claims 6-47 and 52-73, drawn to a method of treating specific classes of wounds by administering wound treating compositions containing compounds identified as therapeutic by measuring agonistic excretion of wound healing procollagen from human fibroblasts exposed to various compounds in vitro.

The Applicants provisionally elect, with traverse, to prosecute the subject matter of Group IV and oxandrolone as a single disclosed compound and treatment of incisional wounds as the single therapeutic wound healing use as set forth in the Office Action. The claims are 6-47 and 52-73. The Applicants reserve the right to file divisional applications directed to the non-elected subject matter of the other groups.

This election is made with traverse because it is believed that the claims can be regrouped into a single group. As the Examiner is aware, there are two criteria for a restriction requirement: (A) the inventions must be independent or distinct as claimed; AND (B) there must be a serious burden on the Examiner. "If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct invention." MPEP §803.

The present claimed invention in each group is independent and distinct. However, the Applicants respectfully request that all of the claims in Groups II, III and IV be examined together. All the claims in the suggested group are sufficiently similar to make it possible to examine these claims without serious burden, with minimal search and extensive overlap of art. The Applicants believe that such regrouping would expedite prosecution of the present case.

In regard to selection of species (compound and method of treatment), the Applicants understand, based on MPEP 809.02(a), that the Examiner will examine all

of the claims that read on the species, including any generic claims that encompass the species (claims 6-47 and claims 52-73). Furthermore, under 37 CFR 1.414, since a reasonable number of species are claimed, once the broad generic claim is allowed, the Applicants would be entitled to consideration of claims to additional species.

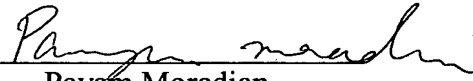
### CONCLUSION

If there are any issues outstanding after consideration of this election, the Examiner is invited to contact the undersigned to expedite prosecution of this case.

Respectfully submitted,

KENYON & KENYON

Dated: August 3, 2004

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